

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of	)	
	)	
The Wireless Telecommunications Bureau and	)	
the Office of Engineering and Technology Seek	)	
Comment on Progeny's M-LMS Field Testing	)	WT Docket No. 11-49
Report	)	

To: Chief, Wireless Telecommunications Bureau and  
The Chief, Office of Engineering and Technology

**OPPOSITION OF PROGENY LMS, LLC**

Progeny LMS, LLC ("Progeny"), by its attorneys, hereby opposes the third request of Skybridge Spectrum Foundation, Telesaurus Holdings GB LLC and the other affiliated entities held by Warren Havens (hereinafter "Havens") for the Commission to extend the deadline for the filing of reply comments in this proceeding.<sup>1</sup>

Styling this most recent request as a "suggestion," Havens renews for a third time the extension request that was denied by the Commission on March 14, 2012. Havens presents no new arguments but instead again "reasserts" the same points that the Commission dismissed as irrelevant in denying the first extension request. Havens does claim to provide "new facts," but they consist merely of adding up the number of pages in the record, totaling 76 by Havens' count. Since the Wireless Bureau released its Public Notice on February 14th, however, Havens and his affiliated entities have filed no fewer than 132 pages into this docket. In contrast, the

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<sup>1</sup> See e-mail of Warren Havens to Paul D'Ari, Deputy Chief, Spectrum Policy, Federal Communications Commission, and Hugh Van Tuyl, Senior Staff Engineer, Office of Engineering and Technology, Federal Communications Commission (March 20, 2012) ("Havens Third Extension Request"). A copy of this Opposition is being sent to Havens by email today.

comments filed by other parties total a mere 56 pages by Havens' count. Thus, Havens' pleadings account for nearly two thirds of the record under consideration.

In support of this third extension request, Havens offers several Commission cases. However, the facts of these cases dramatically illustrate the inadequacy of Havens' request, and by themselves provide an adequate basis to deny Havens request.

For example, in the first case cited, two different (and unaffiliated) parties requested extensions to finish carrying out further technical testing and new analysis.<sup>2</sup> More importantly, the proceeding included 26 parties and a 128 page record, not including the 68 page Notice of Proposed Rulemaking which was itself nearly as long as the entire non-Havens record in this proceeding.

Two of the other cases cited by Havens show even lengthier records, in stark contrast to the modest record of this proceeding. The record of one included 9 parties submitting proposals totaling more than 600 pages.<sup>3</sup> The other included more than 40 commenters and more than 1000 pages of record.<sup>4</sup> In fact, the comments of several individual parties in that proceeding dwarf the entire record at issue here.

Finally, Havens also cites a case in which the extension request was filed by the Defense Information Systems Agency and the Manager, National Communications System on behalf of the United States military in regard to potential interference with U.S. military communications

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<sup>2</sup> *In the Matter of Service Rules for Advanced Wireless Services in the 1915-1920 MHz, 1995-2000 MHz, 2020-2025 MHz and 2175-2180 MHz Bands; Service Rules for Advanced Wireless Services in the 1.7 GHz and 2.1 GHz Bands*, Order, DA 04-3664 (2004).

<sup>3</sup> *In the Matter of Unlicensed Operation in the TV Broadcast Bands; Additional Spectrum for Unlicensed Devices Below 900 MHz and in the 3 GHz Band*, Order, DA 10-215 (2010).

<sup>4</sup> *Mobile Wireless Competition Notice of Inquiry*, WT Docket No. 09-66. This is the docket into which the *Seven Day Extension of Time to File Reply Comments*, DA 09-2207, cited by Havens, was filed.

systems.<sup>5</sup> The subject matter and identity of the requesting party at issue in this case make it inapposite to Havens' request.

In light of the significant arguments raised in these cases alone, Progeny has not sought out further cases that would provide even more evidence that Havens' request falls far below the threshold meriting an extension.

For the reasons provided herein, the Commission should summarily deny Havens' third request for an extension of time. Further, the Commission should admonish Havens for attempting to misuse the Commission's public notice process to create delay in this proceeding and harass a Commission licensee.

Respectfully submitted,

**PROGENY LMS, LLC**

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March 22, 2012

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<sup>5</sup> *In the Matter of Flash Comm, Inc. Request for Waiver of the Commission's Rules Regarding Its Application for Authorization in the High Frequency Band*, Order, DA 96-503 (1996).